IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO No.3754 of 2005
Date of Decision: 23.10.2006

Pepsu Road Transport Corporation Nabha Road, Patiala

Appellant

versus

Monika Sharma and others

Respondents

CORAM:- **HON'BLE MR. JUSTICE JASBIR SINGH**

HON'BLE MR. JUSTICE PRITAM PAL

Present: Shri Jagdish Marwaha, Advocate for the petitioner
Shri Lekh Raj Sharma, Advocate for respondent No.3

Jasbir Singh, J. (Oral)

This appeal has been filed against order dated 9.4.2005, passed by the Motor Accident Claims Tribunal, Patiala (in short the Tribunal), vide which, compensation amount of Rs.2,33,500/- alongwith interest @ 6% per annum, was granted in favour of the claimants- respondents.

It is only contention of counsel for the appellant that the Tribunal has not given any right to the appellant, to recover the amount, in dispute, if need be, from owner of the offending vehicle. We feel that the argument raised, is liable to be rejected. The Tribunal, while fastening the liability upon the appellant, has observed thus:-

> *"21. Now the question is that who will pay this amount. As per the claimant, the accident has taken place due to rash and negligent driving of the offending bus by respondent No.1. The owner of the bus has been impleaded in this case as respondent No.2A. As per the statement of RW.1 Kanwaljit Singh, the bus was running on road under agreement dated*

20.3.2000, copy of which is Ex.R.1. The terms of the agreement are Ex.R.2. As respondents No.1 and 2A have not put in appearance, this fact has not come on file as to whether the offending vehicle was insured or not. It has been argued by the ld. counsel for the respondent No.2 that under the agreement Ex.R.1 and the terms and conditions for hiring bus Ex.R.2, the PRTC is under no liability to pay any compensation for the claim arising out of the accident of the hired bus. In these circumstances, the fact that the vehicle was taken on hire by the PRTC would be of no significance. It is the owner or insurer of the bus, who are liable.

22. The definition of owner of the vehicle has been given in Section 2(30) of the Act, which is as follows:-

> *"owner" means a person in whose name a motor vehicle stands registered and where such person is a minor, the guardian of such minor, and in relation to a motor vehicle which is the subject of a hire-purchase, agreement, or an agreement of lease or an agreement of hypothecation, the person in possession of the vehicle under that agreement."*

23. As per above definition, when the motor vehicle is subject of an agreement of lease, the person in possession of the vehicle under that agreement is to be deemed as owner. At the time of accident, the bus was running for Pepsu Road Transport Corporation at its route permit. It was the conductor of the PRTC, who was controlling the bus and its movements and was getting fare from passengers, as such, the

PRTC was in possession of the bus and was to be deemed as owner. So far as the terms and conditions of the hiring of bus are concerned, the same are the subject matter in between the PRTC and the owner of the bus and do not bind the passengers traveling in the bus run for PRTC.

24. It is the admitted fact that the bus was running under kilometer scheme of PRTC. There is a specific term in Ex.R.2 that the owner of the hired bus shall have to cover the passenger through the Insurance Company. It further provides that the contract will be executed only after the owner of the bus provide the proof of insurance. If this term has been breached, the agreement could be cancelled but bus was operating under PRTC. No evidence has been produced on file by the PRTC that the bus was covered by the insurance policy at the time of accident. Under these circumstances, the only inference, which this court can draw is that the bus was under possession of PRTC at the time of accident and it is the liability of the PRTC alongwith the registered owner of the bus to pay the amount of compensation, jointly and severally with respondent No.1. If any right has vested in the PRTC to recover that amount for the breach of terms and conditions of the agreement, it can recover the same from the owner of the bus. This issue is accordingly decided in favour of the claimant and against the respondents."

A reading of the passage extracted above clearly indicates that the Tribunal has specifically observed that if any right has vested in the appellant to recover the amount from owner of the offending vehicle, it can

recover the same from the owner. Amount granted is very reasonable. No case is made out for interference.

Dismissed.

(Jasbir Singh)
Judge

October 23, 2006 **(Pritam Pal)**
gk **Judge**